

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BK Y No. 03-48727

In re:

Daniel J. Bomstad and Carol M.
Bomstad,
Debtors

Randall L. Seaver, Trustee
Plaintiff

v.

COMPLAINT

Wells Fargo Home Mortgage, Inc.
Defendant

Randall L. Seaver, Trustee ("Trustee") of the Bankruptcy Estate of Daniel J. Bomstad and Carol M. Bomstad ("Debtors") as and for his Complaint against Wells Fargo Home Mortgage, Inc. ("Defendant") states and alleges as follows:

1. Trustee is the duly appointed Chapter 7 Trustee of the bankruptcy estate of the Debtors.
2. This bankruptcy case was commenced on December 18, 2003, by the filing of a voluntary Chapter 7 petition.
3. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).
4. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§157 and 1334. This case arises under 11 U.S.C. §§ 547 and 550.
5. The Debtors are owners, as joint tenants, of real property located in Hennepin County, Minnesota, commonly referred to as 3857 Scott Ave. N., City of Robbinsdale, and legally described as follows :

Lot 30, Block 3, "Rearrangement of Blocks 1, 2, 7, 8 and 9, Seminary Park,"
Hennepin County, Minnesota
("Property")

6. That, on or about October 24, 2003, the Debtors signed a Mortgage in the original principal amount of \$149,250.00 in favor of Wells Fargo Home Mortgage, Inc. ("Mortgage"), with said Mortgage encumbering the Property.
7. That the Mortgage was apparently recorded in the Hennepin County Office of the Registrar of Titles on December 17, 2003, one day prior to filing, as Document No. 3894761.
9. The recording of the Mortgage is a transfer of an interest in property of the debtor, on account of antecedent debt, obtained while the Debtor was insolvent that would enable Defendant to receive more than it would receive as a creditor if this were a chapter 7 case, the transfer had not occurred, and Defendant received payment of its debt to the extent provided by the provisions of title 11 of the U.S. Code.
10. That said transfer is avoidable by the Trustee under 11 U.S.C. § 547 and the property transferred or the value thereof recoverable under 11 U.S.C. § 550.

WHEREFORE, Plaintiff respectfully requests that this Court make its Order:

1. Avoiding the transfer of the interest in the Property represented by the Mortgage pursuant to 11 U.S.C. §547 and ordering recovery of the Property or entering judgment against Defendant in an amount equal to the value of the Property interest transferred pursuant to 11 U.S.C. §550.
2. Awarding the Plaintiff his costs and disbursements in this action and any other or further relief as the court deems just and equitable.

FULLER, SEAVER & RAMETTE, P.A.

Dated: June 4, 2004

By: /e/ Roger B. Seaver
Roger B. Seaver 251227
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Plaintiff

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 03-48727

In re:

Chapter 7

Daniel J. Bomstad and Carol M.
Bomstad,
Debtors

Randall L. Seaver, Trustee

Plaintiff

v.

Wells Fargo Home Mortgage, Inc.

Defendant

UNSWORN CERTIFICATE OF SERVICE

I, **Roger B. Seaver**, declare under penalty of perjury that on **June 4, 2004** I mailed a copy of the **Summons and Complaint** along with all exhibits thereto first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Officer or Managing Agent
Wells Fargo Home Mortgage, Inc.
3601 Minnesota Drive
Bloomington, MN 55435-5284
VIA CERTIFIED AND US MAIL

Thomas Reiter
REITER & SCHILLER
6 West Fifth Street, Seventh Floor
Saint Paul, MN 55102-1420

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

FULLER, SEAVER & RAMETTE, P.A.

Dated: June 4, 2004

By: /e/ Roger Seaver _____

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12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
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